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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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10 Arcus Equity II, LLC,

11 Plaintiff,

12 vs.

13 Mission Capital Advisors, LLC, et al.,

14 Defendants.

No. CV-11-1453-PHX-PGR

ORDER

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16 In a complaint filed on July 22, 2011, the plaintiff alleges that the Court has
17 diversity of citizenship jurisdiction over this action pursuant to 28 U.S.C.
18 § 1332(a)(1). Having reviewed the complaint upon the reassignment of this
19 action, the Court finds that the jurisdictional allegations in the complaint are
20 insufficient as a matter of law to establish the existence of subject matter
21 jurisdiction. The Court will therefore require the plaintiff to file an amended
22 complaint properly stating a jurisdictional basis for this action. See 28 U.S.C.
23 § 1653; *see also, Smith v. McCullough*, 270 U.S. 456, 459, 46 S.Ct. 338, 339
24 (1926) ("The established rule is that a plaintiff, suing in federal court, must show
25 in his pleading, affirmatively and distinctly, the existence of whatever is essential
26 to federal jurisdiction, and, if he does not do so, the court, on having the defect

1 called to its attention or on discovering the same, must dismiss the case, unless
2 the defect be corrected by amendment.")

3 The jurisdictional allegation concerning the citizenship of plaintiff Arcus
4 Equity II, LLC, which is merely that it is an Arizona limited liability company with
5 its principal place of business in Maricopa County, Arizona, and the jurisdictional
6 allegation concerning the citizenship of defendant Mission Capital Advisors, LLC,
7 which is merely that it is a Florida limited liability company located in West Palm
8 Beach, Florida, with offices in New York, NY, Austin, TX, Newport Beach,
9 CAROLINA, and Palm Beach Gardens, FL, are facially deficient as a matter of
10 law inasmuch as the citizenship of a limited liability company for purposes of
11 § 1332 is the citizenship of each of its members. Johnson v. Columbia Properties
12 Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006) ("Notwithstanding LLCs'
13 corporate traits, ... every circuit that has addressed the question treats them like
14 partnerships for the purposes of diversity jurisdiction. ... We therefore join our
15 sister circuits and hold that, like a partnership, an LLC is a citizen of every state of
16 which its owners/members are citizens.") Since the complaint fails to set forth the
17 citizenship of the members of the plaintiff and the members of defendant Mission
18 Capital Advisors, the Court will require the plaintiff to specifically identify in its
19 amended complaint each LLC member by name, specifically allege the type of
20 business entity that any non-individual member is, and affirmatively allege the
21 state of citizenship of each member.

22 The plaintiff is advised that its failure to timely file an amended complaint
23 that cures the pleading deficiency noted in this Order will result in the dismissal of
24 this action for lack of subject matter jurisdiction. Therefore,

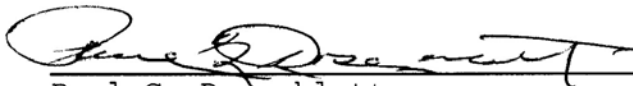
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1 IT IS ORDERED that the complaint is dismissed for lack of subject matter
2 jurisdiction.

3 IT IS FURTHER ORDERED that the plaintiff shall file an amended
4 complaint properly stating a jurisdictional basis for this action no later than
5 **September 12, 2011.**¹

6 IT IS FURTHER ORDERED that the parties' Stipulation to Extend Time to
7 Respond to Complaint (Doc. 9) is denied without prejudice as moot.

8 DATED this 30th day of August, 2011.

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11 Paul G. Rosenblatt
United States District Judge

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25 The plaintiff is advised that the complete capitalization of a party's name
26 in the caption of any document filed with the Court violates LRCiv 7.1(a)(3) unless
that party's name is completely capitalized in its normal use.